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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,820	07/18/2003	Manfred Hellwig	LORWER P25AUS	3029

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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,820

Applicant(s)

HELLWIG ET AL.

Examiner

Lynda M. Salvatore

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/18/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 is generally narrative and indefinite, failing to conform with current U.S. practice. Specific examples of indefiniteness include the lack of punctuation after the word fabric in line 2 and the phrases “provided on the side which is remote form the heat source with a compound” (is the compound a coating layer?), “is provided on that side which faces the heat source” and “to which has been applied a vapor-deposited coating”. Applicant’s claim lacks specific structural organization with respect to the relation of the base textile, compound, film and vapor coating. For purposes of examination claim 1 will be interpreted to mean a glass woven fabric having a compound, a polyester film and a vapor coating in any structural arrangement.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1771

5. Claims 1-5,8-9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pusch et al., US 4,560,608.

The patent issued to Pusch et al., teach a camouflage composite material comprising a woven glass fabric having a plastic coating on both sides, followed by a vapor-deposited metal coating (abstract, figure 1, column 3, 10-35). Said composite is further provided with a pigmented layer (abstract). Suitable plastic layers include silicone and polyurethane (column 3, 15-20). With regard to the limitation of providing a compound with reflectance values in the region of visual camouflage, the prior art does not explicitly teach a transparent plastic layer. As such, the Examiner considers either non-transparent silicone or polyurethane coating sufficient to met said reflectance limitation. With regard to claim 2, the Examiner asserts that a silicone or polyurethane coating would provide the necessary adhesiveness required for the vapor-deposited metal coating. With regard to the polyester film layer, Pusch et al., teach that the vapor deposition can be applied indirectly by metallizing a polyester film and transferring said film to the plastic layer (column 3, 40-50). The preferred metal is aluminum (column 3, 49-50). With regard to the basis weight of the fabric layer, Pusch et al., teach a weight ranging from 20-400 grams per square meter (column 3, 30-40). With regard to claims 8 and 9, Pusch et al., teach adding antimony trioxide, which is usually silver-gray in color to the plastic layers. It is the position of the Examiner that adding such a colored metal compound is sufficient to meet the limitation of providing a compound with metal pigments.

With regard to the specific method limitation recited in claim 2, it is the position of the Examiner that the claimed luminization method is not germane to the final product structure. In other words, it appears that the prior art vapor coating is the same or similar to that of the instant

Art Unit: 1771

invention although produced by a different process. The presence of process limitations on product claims, in which the product does not otherwise patentably distinguish over the prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656. In this case, the burden shifts to Applicant to come forward with evidence establishing an obvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289,292

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-7 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pusch et al., US 4,560,608.

With specific regard to claims 6-7, Pusch et al., does not specifically teach the basis weight of the adhesive layer, but it is the position of the Examiner that it would be obvious to one having ordinary skill in the art to provide a sufficient amount of adhesive based on desired adhesive strength. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233

With regard to claims 10-11, Pusch et al., exemplifies an amount of plastic coating of about 15 grams per square meter, but fails to teach the claimed range. However, it is the position of the Examiner that it would be obvious to one having ordinary skill in the art at the time the invention was made to optimize the amount of plastic coating as a function of strength and

durability. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272,205 USPQ 215 (CCPA 1980)

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pusch et al., US 4,560,608 as applied to claim 1 and further in view of Gehrhardt et al., DE 29805867

Pusch et al., fails to teach the claimed cross twill weave structure, however the abstract issued to Gehrhardt et al., teach a woven fabric in a cross twill. Said fabric provides protection against heat, flames, and electric arc effects (abstract).

Therefore, motivated by the desire to provide a camouflage fabric with added protection against heat and flames it would have been obvious to one having ordinary skill in the art weave the woven glass fabric taught by Pusch et al., in a cross twill pattern as taught by Gehrhardt et al.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/622,820
Art Unit: 1771

Page 6

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 27, 2005
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